

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ROBERT CULLEN,

*On Behalf of Himself and All Others Similarly
Situated,*

Plaintiff,

V.

ZOOM VIDEO COMMUNICATIONS, INC.,

Defendant.

Case No. 5:20-cv-02155-LHK

SAMUEL TAYLOR,

*On Behalf of Himself and All Others Similarly
Situated,*

Plaintiff,

V.

ZOOM VIDEO COMMUNICATIONS, INC.,

Defendant.

Case No. 5:20-cv-02170-LHK

LISA T. JOHNSTON,

On Behalf of Herself and All Others Similarly Situated,

Plaintiff,

V₃

ZOOM VIDEO COMMUNICATIONS, INC.,

Defendant.

Case No. 5:20-cv-02376-LHK

TIMOTHY GENS,

Individually and On Behalf of All Others Similarly Situated,

Plaintiff,

Case No. 4:20-cv-03078-LHK

V.

ZOOM VIDEO COMMUNICATIONS, INC.,

Defendants.

TESHA KONDRAT, GAVIN WOLFE, and
CHANELLE MURPHY,

Individually and On Behalf of All Others Similarly Situated,

Case No. 5:20-cv-02520-LHK

Plaintiffs,

V.

ZOOM VIDEO COMMUNICATIONS, INC.,

Defendant.

ROBERT LAWTON,

*On Behalf of Himself and All Others Similarly
Situated,*

Case No. 5:20-cv-02592-LHK

Plaintiff,

V.

ZOOM VIDEO COMMUNICATIONS, INC.,

Defendant.

**STIPULATION AND [PROPOSED] ORDER TO CONSOLIDATE ACTIONS AND SET SCHEDULING DEADLINES
CASE NO. 5:20-CV-02155-LHK**

1 THERESE JIMENEZ,

2 *On Behalf of Herself, Her Minor Child M.F., and All*
3 *Others Similarly Situated,*

4 Plaintiff,

5 v.

6 ZOOM VIDEO COMMUNICATIONS, INC.,

7 Defendant.

Case No. 5:20-cv-02591-LHK

8 KRISTEN HARTMANN,

9 *On Behalf of Herself and All Others Similarly Situated,*

10 Plaintiff,

11 v.

12 ZOOM VIDEO COMMUNICATIONS, INC.,

13 Defendant.

Case No. 5:20-cv-02620-LHK

14 LISHOMWA HENRY,

15 *Individually and On Behalf of All Others Similarly*
Situated,

16 Plaintiff,

17 v.

18 ZOOM VIDEO COMMUNICATIONS, INC.,

19 Defendant.

Case No. 5:20-cv-02691-LHK

1 RACHEL GREENBAUM,
2 *Individually and On Behalf of Herself and All Others
Similarly Situated,*
3 Plaintiff,
4 v.
5 ZOOM VIDEO COMMUNICATIONS, INC.,
6 Defendant.

Case No. 5:20-cv-02861-LHK

8 STACEY SIMINS,
9 *On Behalf of Herself and All Others Similarly Situated,*
10 Plaintiff,
11 v.
12 ZOOM VIDEO COMMUNICATIONS, INC.,
13 Defendant.

Case No. 5:20-cv-02893-LHK

14 ADAM BUXBAUM, *et al.*,
15 *On Behalf of Themselves and All Others Similarly
Situated,*
16 Plaintiffs,
17 v.
18 ZOOM VIDEO COMMUNICATIONS, INC.,
19 Defendant.

Case No. 5:20-cv-02939-LHK

1 AJAY KIRPEKAR,

2 *Individually and on Behalf of All Others Similarly
3 Situated,*

4 Plaintiff,

5 v.

6 ZOOM VIDEO COMMUNICATIONS, INC.,

7 Defendant.

Case No. 5:20-cv-03042-LHK

8 SAINT PAULUS LUTHERAN CHURCH, *et
9 al.*,

10 *Individually and on Behalf of Themselves and All Others
11 Similarly Situated,*

12 Plaintiffs,

13 v.

14 ZOOM VIDEO COMMUNICATIONS, INC.,

15 Defendant.

Case No. 5:20-cv-03252-LHK

16 **STIPULATION AND [PROPOSED] ORDER TO CONSOLIDATE ACTIONS AND
17 SET SCHEDULING DEADLINES**

18 WHEREAS, the above-captioned related proposed consumer class actions pending before this
19 Court in the United States District Court for the Northern District of California, entitled: *Cullen v. Zoom
20 Video Communications, Inc.*, Case No. 5:20-cv-02155-LHK (“*Cullen*”), filed March 30, 2020; *Taylor v. Zoom
21 Video Communications, Inc.*, Case No. 5:20-cv-02170-LHK (“*Taylor*”), filed March 31, 2020; *Johnston v. Zoom
22 Video Communications, Inc.*, Case No. 5:20-cv-02376-LHK (“*Johnston*”), filed April 8, 2020; *Gens v. Zoom
23 Video Communications, Inc.*, Case No. 4:20-cv-03078-LHK, April 12, 2020 (“*Gens*”); *Kondrat, et al. v. Zoom
24 Video Communications, Inc.*, Case No 5:20-cv-02520-LHK (“*Kondrat*”), filed April 13, 2020; *Lawton v. Zoom
25 Video Communications, Inc.*, Case No. 5:20-cv-02592-LHK (“*Lawton*”), filed April 14, 2020; *Jimenez v. Zoom
26 Video Communications, Inc.*, Case No. 5:20-cv-02591-LHK (“*Jimenez*”), filed April 14, 2020; *Hartmann v.
27*

1 *Zoom Video Communications, Inc.*, Case No. 5:20-cv-02620-LHK (“*Hartmann*”), filed April 15, 2020; *Henry*
 2 *v. Zoom Video Communications, Inc.*, Case No. 5:20-cv-02691-LHK (“*Henry*”), filed April 17, 2020; *Greenbaum*
 3 *v. Zoom Video Communications, Inc.*, Case No. 5:20-cv-02861-LHK (N.D. Cal.) (“*Greenbaum*”), filed April 24,
 4 2020; *Simins v. Zoom Video Communications, Inc.*, Case No. 5:20-cv-02893-LHK (“*Simins*”), filed April 27,
 5 2020; *Buxbaum, et al. v. Zoom Video Communications, Inc.*, Case No. 5:20-cv-02939-LHK, filed April 29, 2020
 6 (“*Buxbaum*”); *Kirpekar v. Zoom Video Communications, Inc.*, Case No. 5:20-cv-03042-LHK (“*Kirpekar*”), filed
 7 May 4, 2020; and *Saint Paulus Lutheran Church v. Zoom Video Communications, Inc.*, No. 5:20-cv-03252-LHK
 8 (N.D. Cal.) (“*Saint Paulus*”) (the “Related Actions”).¹

9 WHEREAS, Plaintiffs in the Related Actions allege, *inter alia*, that Defendant Zoom Video
 10 Communications, Inc. (“Zoom”), *inter alia*, provides customers’ personal identifying information (“PII”)
 11 to unauthorized third parties without customers’ consent;

12 WHEREAS Zoom denies such allegations;

13 WHEREAS, Plaintiffs in the Related Actions agree that consolidation is appropriate under Fed.
 14 R. Civ. P. 42(a) because they involve common questions of law or fact, name the same defendant, arise
 15 from the same events, and assert overlapping claims;

17 ¹ Two actions involving common questions of law or fact and arising from the same events were filed
 18 against Zoom in the United States District Court for the Central District of California. See *Ohlweiler v.*
Zoom Video Communications, Inc., Case No. 2:20-cv-03165-SVW (C.D. Cal. April 3, 2020) and *Hurvitz v.*
Zoom Video Communications, Inc., Case No. 2:20-cv-03400-PA (C.D. Cal. April 13, 2020) (also naming
 20 Facebook, Inc. and LinkedIn Corporation as defendants). The parties in *Ohlweiler* filed a stipulation to
 21 transfer *Ohlweiler* to this District, which was granted by the Honorable Stephen V. Wilson on May 13,
 22 2020. *Ohlweiler* Dkt. No. 18. On May 20, 2020, *Ohlweiler* was accepted by the Northern District and
 23 assigned to Magistrate Judge Van Keulen. See *Ohlweiler v. Zoom Video Communications, Inc.*, Case No. 5:20-
 24 cv-03281-SVK. With respect to *Hurvitz*, Plaintiff Cullen filed a Notice of Pendency of Other Action with
 25 this Court pursuant to Civil Local Rule 3-13 (“Notice of Pendency”) on April 23, 2020, Dkt. No. 25,
 26 which Hurvitz opposed on May 7, 2020, Dkt. No. 42. On May 12, 2020, after the parties in *Hurvitz* had
 27 responded to the *Hurvitz* Court’s order to show cause why the case should not be transferred to the
 28 Northern District, Plaintiff in *Hurvitz* filed an amended complaint dismissing without prejudice his claims
 against Zoom (but not against Facebook or LinkedIn). Later that same day, acknowledging the
 amendment, the Honorable Percy Anderson ordered that *Hurvitz* be transferred to this District, *Hurvitz*
 Docket No. 41. See *Hurvitz v. Zoom Video Communications, Inc.*, Case No. 4:20-03258-DMR (N.D. Cal. May
 13, 2020).

1 WHEREAS, consolidation will eliminate duplicative discovery, the possibility of inconsistent
2 rulings on class certification, *Daubert* motions, and other pretrial matters, and conserve judicial and party
3 resources;

4 WHEREAS, Zoom does not at this time oppose procedural consolidation of the Related Actions
5 for pre-trial purposes under Fed. R. Civ. P. 42(a), while expressly reserving all of its rights, remedies,
6 defenses, objections, and legal arguments, including, without limitation, its right to move to dismiss or to
7 compel arbitration, and to oppose consolidation in any other forum, further consolidation in this forum,
8 or class certification on any grounds;

9 WHEREAS, the undersigned counsel for Plaintiffs agree that a streamlined process for the
10 appointment of interim class counsel under Fed. R. Civ. P. 23(g)(3) or other designated counsel will be
11 beneficial to the effective prosecution of the Related Actions, and any other related actions subsequently
12 transferred to this Court;

13 WHEREAS, Zoom takes no position on Plaintiffs' request for the appointment of interim class
14 counsel or other designated counsel;

15 NOW THEREFORE, the Parties through their respective counsel and subject
16 to the Court's approval hereby stipulate that:

17 1. The *Cullen, Taylor, Johnston, Gens, Kondrat, Lawton, Jimenez, Hartmann, Henry, Greenbaum*
18 *Simins, Buxbaum, Kirpekar, and Saint Paulus* actions currently pending before this Court and any other
19 action arising out of the same or similar operative facts now pending or hereafter filed in, removed to, or
20 transferred to this District shall be consolidated for pre-trial purposes pursuant to Fed. R. Civ. P. 42(a)
21 before the Honorable Lucy H. Koh (hereafter the "Consolidated Action").

22 2. All papers filed in the Consolidated Action shall be filed under Case No. 5:20-cv-02155-
23 LHK and shall bear the following caption:

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

*IN RE: ZOOM VIDEO COMMUNICATIONS,
INC. PRIVACY LITIGATION*

Master File No. 5:20-cv-02155-LHK

This Document Relates To:

3. The case file for the Consolidated Action will be maintained under Master File No. 5:20-cv-02155-LHK. When a pleading is intended to apply to all actions to which this Order applies, the words “All Actions” shall appear immediately after the words “This Document Relates To:” in the caption described above. When a pleading is not intended to apply to all actions, the docket number for each individual action to which the paper is intended to apply and the last name of the first-named plaintiff in said action shall appear immediately after the words “This Document Relates To:” in the caption identified above, for example, “5:20-cv-02155-LHK (*Cullen*).”

4. Any action subsequently filed, transferred or removed to this Court that arises out of the same or similar operative facts as the Consolidated Action will be, with the Court's approval, consolidated with the Consolidated Action for pre-trial purposes. The parties shall file a Notice of Related Action pursuant to N.D. Cal. L.R. 3-12 whenever a case that should be consolidated into this action is filed in, or transferred to, this District. If the Court determines that the case is related and should be consolidated, the clerk shall:

- a. place a copy of this Order in the separate file for such action;
 - b. serve on Plaintiffs' counsel in the new case a copy of this Order;
 - c. direct that this Order be served upon defendants in the new case; and
 - d. make the appropriate entry in the Master Docket.

1 5. Zoom reserves and does not waive any and all rights to enforce its Terms of Service, or
2 to move to dismiss or to compel arbitration, to oppose any class or other representative action in this or
3 any other forum, and to oppose class certification or the appointment of class counsel on any grounds,
4 including adequacy of representation under Fed. R. Civ. P. 23(a) and (g).

5 6. Initial deadlines for the Consolidated Action are as follows:

- 6 a. Any attorney who has filed an action in the Related Actions or any other action arising
7 out of the same or similar operative facts now pending or hereafter filed in, removed
8 to, or transferred to this District, may file an application for appointment as interim
9 class counsel or other designated counsel either individually or as part of a proposed
10 leadership structure. All applications must be e-filed in the Master File No. 5:20-cv-
11 02155-LHK, no later than 5 p.m. Pacific Time, seven (7) calendar days from the date
12 of entry of the Court's order approving this stipulation. Each attorney's or proposed
13 leadership structure's application shall not exceed five pages double-spaced
14 addressing the factors set forth in Rule 23(g) or other relevant factors and may include
15 a resume no longer than three pages. Counsel may file a two-page response (including
16 any attachments) no later than 5 p.m. Pacific Time, three (3) business days from the
17 filing deadline of the initial applications. The Court may hold a hearing on the
18 applications or appoint interim counsel or other designated counsel based on timely
19 written submissions only;
- 20 b. Plaintiffs shall file a Consolidated Complaint superseding all previously individually
21 filed complaints no later than thirty (30) days following entry of an order appointing
22 interim class counsel or other designated counsel;
- 23 c. Zoom and any additional defendants named in future Related Actions need not file a
24 response to the complaint in each Related Action and instead will answer, move or
25 otherwise respond to the Consolidated Complaint no later than forty-five (45) days
26 following service of the Consolidated Complaint; and

1 d. The Parties (with interim counsel or other counsel as designated by the Court
2 representing the interests of the Plaintiffs) will file a Joint Case Management
3 Statement no later than July 15, 2020, pursuant to this Court's Order (Dkt. No. 30)
4 in the Related Actions setting the Initial Case Management Conference for July 22,
5 2020 at 2:00 p.m. in Courtroom 8, 4th Floor, in San Jose, California.

6 **IT IS SO STIPULATED.**

7 Dated: May 21, 2020

Respectfully submitted,

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5
6
7 Attorneys for Defendant *Zoom Video*
8 *Communications, Inc.*
9

10 [PROPOSED] ORDER
11

12 PURSUANT TO STIPULATION, IT IS SO ORDERED
13

14 Date: _____
15

16 Hon. Lucy H. Koh
17 United States District Judge
18